

# SPECIAL PUBLIC NOTICE

**US Army Corps  
of Engineers®**

ESTABLISHMENT OF AN  
IN-LIEU FEE MITIGATION PROGRAM

*LOS ANGELES DISTRICT*

**Public Notice/Application No.:** 2003-01214-AOA

**Date of Notice:** June 30, 2004

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**Sponsor**

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**In-Lieu Fee Mitigation Program**

The District Engineer is pleased to announce the establishment of an In-Lieu Fee Program for Arundo Eradication and Habitat Enhancement in the San Gabriel River Watershed. The San Gabriel Mountains Regional Conservancy (SGMRC) will manage this in-lieu fee program. The goal of the program is to restore and enhance riparian habitat through the removal of invasive, non-native plant species (*Arundo donax* (giant reed), *Ricinius communis* (castor-bean), and *Tamarix* spp. (tamarisk)) within the San Gabriel River Watershed. The mitigation program will involve the participation of SGMRC, California Department of Transportation in conjunction with the Corps of Engineers.

**Implementing Mechanisms for the In-Lieu Fee Mitigation Program**

A Memorandum of Agreement (MOA) between the U.S. Army Corps of Engineers (Corps) and the San Gabriel River Mountains Regional Conservancy (SGMRC) will implement the In-Lieu Fee Mitigation Program. This MOA is consistent with the "Federal Guidance on the Use of In-Lieu Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act" (65 FR 66914, November 7, 2000). Oversight of the In-Lieu Fee Mitigation Program would be the responsibility of the Corps in conjunction with the SGMRC.

Establishment and operation of the in-lieu fee program would result in discharges of fill material into waters of the U.S. This discharge of fill would be authorized under Regional General Permit (RGP) No. 41 - Removal of Invasive, Exotic Plants from Waters of the U.S. within the portion of California in the Los Angeles District of the Corps of Engineers. The In-Lieu Fee Mitigation Program has not received a

Section 401 water quality certification from the Los Angeles California Regional Water Quality Control Board. Discharges of fill associated with projects wishing to use the In-Lieu Fee Mitigation Program would need to receive Section 404 authorization on a case-by-case basis through normal permit application procedures.

### **Use of the In-Lieu Fee Mitigation Program**

**Geographic Service Area of the In-Lieu Fee Mitigation Program:** The In-Lieu Fee Mitigation Program will be available for use as compensation for unavoidable impacts to waters of the U.S., including wetlands, resulting from activities authorized under Section 404 of the Clean Water Act. Only projects that occur in the San Gabriel River Watershed (see attached map) are eligible to purchase credits from this In-Lieu Fee Mitigation Program.

**Projects Eligible to Use the In-Lieu Fee Mitigation Program:** Recipients of Section 404 permits for projects within the geographic service area may be eligible to purchase credits from the in-lieu fee program in order to satisfy mitigation requirements of their Corps permit. Use of the In-Lieu Fee Mitigation Program is contingent upon Corps approval and subject to the following conditions:

1. The Corps has met the guidelines of the “Federal Guidance on the Use of In-Lieu Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.” This Guidance stipulates that all efforts must be made to avoid and minimize impacts and that mitigation only be used to compensate for unavoidable impacts.

2. Credits from the In-Lieu Fee Mitigation Program can only be used to mitigate in-kind impacts to aquatic habitat, i.e. only impacts to riparian habitat may be mitigated by the In-Lieu Fee Mitigation Program.

3. The In-Lieu Fee Mitigation Program **will not be considered** for mitigation of unavoidable losses to unique wetlands such as, but not limited to, jurisdictional vernal pools.

4. Projects using the In-Lieu Fee Mitigation Program for compensation of unavoidable impacts must be located within the San Gabriel River Watershed.

5. The In-Lieu Fee Mitigation Program shall be used to compensate for minimal impacts, individually or cumulatively. This mitigation program shall be limited to mitigation for i) permanent impacts to aquatic resources authorized by a nationwide or regional general permit (generally less than 0.5 acre); ii) permanent impacts to aquatic resources authorized by an individual permit after the first 1:1 ratio (i.e. one acre of mitigation for each acre of impact) incorporates enhancement, restoration, or creation of aquatic resources; iii) temporary impacts to aquatic resources; and iv) unauthorized impacts to wetlands and other waters of the U.S in conjunction with a restoration order. Examples of projects authorized by nationwide permits include: maintenance activities (NWP 3) such as placement of riprap for road stabilization; outfall structures (NWP 7); utility-line backfill and bedding (NWP 12); bank stabilization for erosion or flood prevention (NWP 13); road crossing and widening projects (NWP 14); residential, commercial, and institutional developments (NWP 39), and recreational facilities (NWP 42).

Mitigation ratios would be determined in consultation with the Environmental Protection Agency (EPA) and the U.S. Fish and Wildlife Service (FWS) for impacts authorized by individual permits and by the Corps for impacts authorized by general permits. The determination of the mitigation ratios is based upon an assessment of the riparian functions established at the In-Lieu Fee Mitigation Program and the riparian functions lost at the permitted project site.

## **Additional Information**

More than 95% of the historic riparian habitat in southern California has been lost to agriculture, development, flood control, and other human-caused impacts. One of the greatest threats to the remaining riparian habitat is invasion of non-native plant species. Non-native plant species can readily invade riparian areas, especially following disturbances, and out compete native riparian vegetation. Over time, riparian habitat converts to monotypic stands of non-native vegetation that provide little habitat, hydrologic, and biogeochemical functions. In southern California, the non-native plants of most concern in riparian areas are Arundo (giant reed) and Tamarisk (salt cedar). In addition to reducing habitat function, these plants can increase evapotranspiration, increase risk of fire, increase water temperatures by reduce shading, and decrease flood conveyance of rivers. Long-term control of Arundo and Tamarisk is considered essential to restoration, enhancement, and preservation of riparian resources in the San Gabriel River.

The Santa Gabriel River is one of the largest river systems in southern California. The riparian habitat along the San Gabriel River supports a diversity of wildlife, including several federally protected species, such as the least Bell's vireo (*Vireo bellii pusillus*) and the Santa Ana River sucker (*Catostomus santaanae*). In addition, the river acts as a movement corridor, conveys flood flows, is responsible for recharge of local aquifers, and provides substantial water quality enhancement. Arundo and Tamarisk infestation degrade all the above physical and biological functions.

For additional information please call Aaron O. Allen of my staff at (805) 585-2148. This public notice is issued by the Chief, Regulatory Branch.

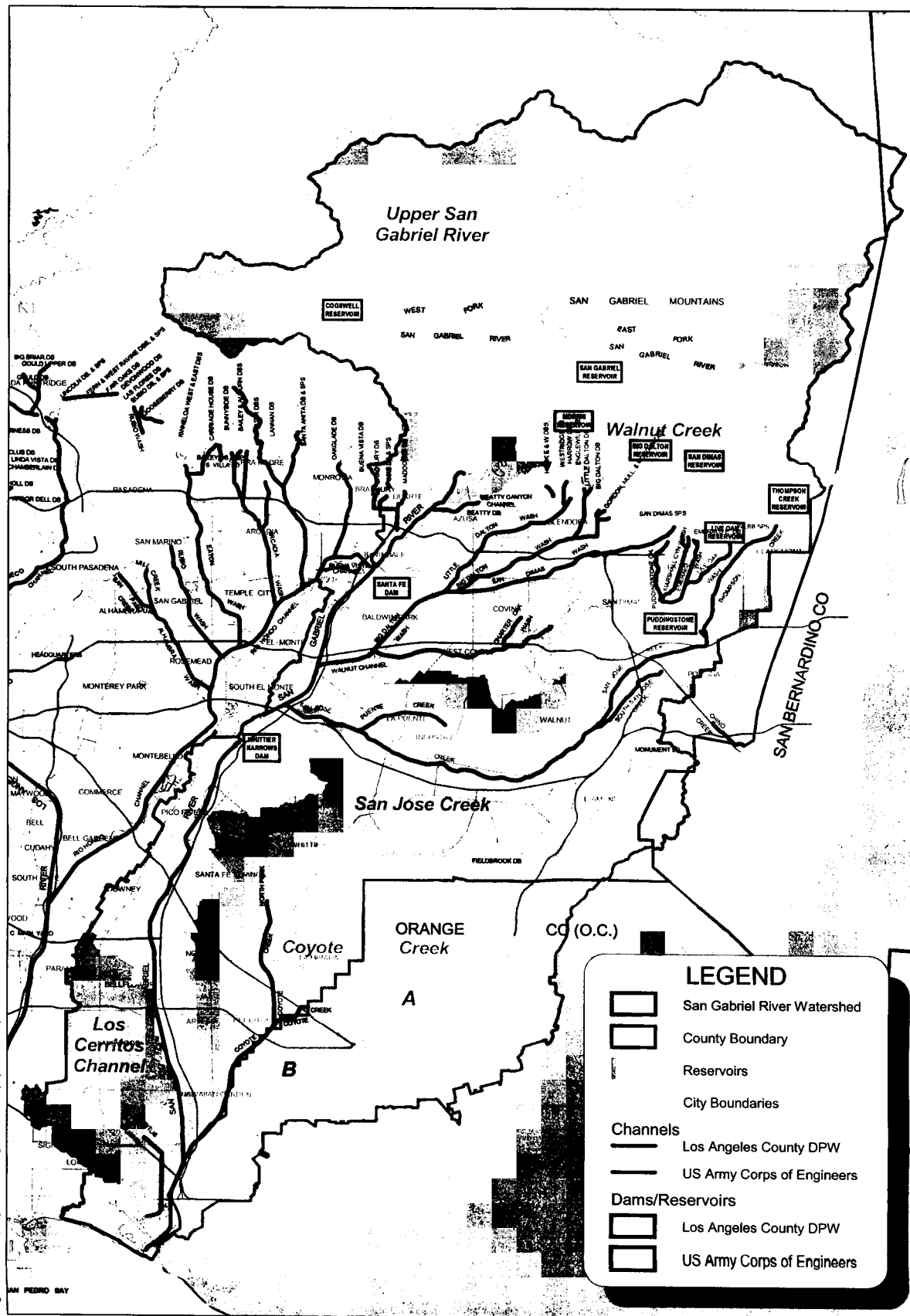
## SAN GABRIEL RIVER SUB-WATERSHEDS

Los Angeles County Department of Public Works  
April 16, 2002



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